IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

FRIDAY, THE EIGTH DAY OF JULY
TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO: 5799 of 2005

Between:

Kannam Rajaiah, S/o. Latchaiah,
R/o. Bhoopalpalli Village & Manal, Warangal District.

..... PETITIONER

A N D

1 The District Collector, Warangal District, Warangal.
2 The Revenue Divisional Officer (LAO), Munugu, Warangal District.
3 The Singareni Collieries Company Limited, Rep. by its General

Manager, Godavarikhani Ramagundam, Karimnagar Distrit.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ order or direction more particularly one nature of Writ of mandamus declaring the action of the respondents in not taking any steps for conducting survey and demarcating the land of 0.24 gts in Sy.No. 397 situated at Bhoopalpalli Village and Mandal for the purpose of the acquisition is illegal, arbitrary and contrary to the provisions of the land acquisition Act and direct the respondents to conduct physical survey and issue fresh notification on the basis of requisition proceedings submitted at the 3rd respondent the 1st respondent.

Counsel for the Petitioner: MR.J.VENKATESWARA REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following: (order follows 2nd page)

O R D E R :

This writ petition is filed to declare the action of the respondents in not taking any steps for conducting survey and demarcating the land of Ac:0-24 guntas in sy.no.397 situate at Bhoopalpalli village and Mandal, Warangal district, for the purpose of acquisition as illegal, arbitrary and contrary to the provisions of the Land Acquisition Act and direct the respondents to conduct physical survey and issue fresh notification on the basis of requisition proceedings.

The petitioner submits that he along with one Mr.A.Sambaiah are the owners of the land in sy.no.397 admeasuring Ac:04-04 guntas situate at Bhoopalpalli village and Mandal, Warangal district, and the same was purchased under a registered sale deed from its original owner, Mr.A.Nallaiah in the year 1988 and they are continuing possession and enjoyment thereof.

The petitioner submits that in the year 1993, the third respondent proposed to acquire an extent of Acs:21-05 guntas for the purpose of township and laying the roads and they have taken advance possession of the land. Thereafter issued a notification under section 4 (i) of the Land Acquisition Act on 21-5-1992. The petitioner and Mr.A.Samabaiah filed WP.No.20718 of 1993 before this court challenging the land acquisition proceedings. In so far as they relate to our lands, this court admitted the same and granted interim orders on 01-10-1993.

During the pendency of the said writ petition the third respondent forwarded a fresh requisition proposals to the first respondent through its proceedings No.GMRG-

IV/12-N/96, dated 05-4-1996. In the said proceedings, the third respondent deleted an extent of Acs:3-20 guntas in respect of land in sy.no.397 out of Acs:04-04 guntas from the land acquisition proceedings and also deleted an extent of Ac:0-06 guntas land in sy.no.396 and requested the first respondent for initiation of fresh proceedings under the land acquisition Act to an extent of Acs:17-19 ¼ guntas.

While things stood thus, this court disposed of WP.No.20718 of 1998 on 08-8-2001 directing the second respondent to pass award within a period of two months from the date of receipt of the order and further permitted the petitioner to file objections in the award enquiry. After disposal of the said writ petition the respondents issued a notice in RC.No.B/SC/1099/96, dated 12-12-2001 directing the petitioner to participate in the award enquiry to be held on 29-12-2001 in respect of land in sy.no.397 admeasuring Ac:0-24 guntas. In the said notice the second respondent stated that the third respondent had withdrawn land acquisition proceedings in respect of some extent of land in sy.no.397 in pursuance of orders in WP.No.20718 of 1993. In the said notice, the respondent had not mentioned whether they have taken any steps for demarcation of an extent of Ac:0-24 guntas, which is under acquisition and the award enquiry is pending.

The petitioner submits that instead of taking steps for conducting fresh survey of initiation of fresh proceedings under the Act, they are proceeding on the basis of earlier notification to an extent of Acs:17-19 ¼ guntas. The third respondent admittedly sent a fresh requisition proposals on 05-4-1996. The respondents 1 and 2 ought to have taken steps for conducting spot survey in respect of land in sy.lno.397

and 396 are ought to have demarcated the land for the proposed acquisition. Admittedly an extent of Acs:3-20guntas of land in sy.no.397 is deleted from the notification issued earlier. And an extent of Ac:0-06 guntas is deleted from sy.no.396. The respondent sent fresh requisition proposals or acquisition of balance land i.e., Acs:21-04 guntas. The second respondent instead of issuing a fresh notification on the basis of fresh requisition proposals sent by the third respondent is proceeding with the award enquiry on the basis of land acquisition proceedings issued earlier.

Now the petitioner submits that after deletion of land to an extent of Acs:3-20 guntas in sy.no.397 from the earlier notification dated 21-5-1992 neither the third respondent nor the respondents 1 and 2 have physically surveyed the lands for the purpose of acquisition enabling the second respondent to conduct the award enquiry. The land in sy.no.397 has been divided into sub-divisions but no specifications are made on the spot and no survey is conducted and the land is not demarcated.

It is further submitted that the petitioner brought the same to the notice of the first respondent and requested to direct the concerned authorities to know whether any land is available on the spot for the purpose of acquisition. When the respondents have not taken any steps, the petitioner issued legal notice on 02-2-2005 through his counsel to take necessary steps for conducting spot survey in respect of land in sy.no.397 enabling to come to a decision.

The petitioner submits that the respondents without conducting any survey of the proposed acquisition in respect of lands in sy.no.397 admeasuring Ac:0-24

guntas situate at Bhoopalpalli village and Mandal and for initiation of fresh notification under Section 4 (1) of Land Acquisition Act, as illegal, arbitrary and direct the respondents to conduct spot survey and demarcate the land for the purpose of initiation of proceedings under the Land Acquisition Act.

When the matter came up for admission, the learned Govt.Pleader on instructions submitted RC.No.B/SC/1099/96 dated 07-4-2005 issued by the Revenue Divisional Officer, Mulug, Warangal district, wherein it is stated that the Government has no interest to acquire the land in survey no.397 of Bhoopalpalli village and Mandal to an extent of Ac:0-24 guntas. The petitioner and others in sy.no.306/A have made a representation requesting the requisitioning department to withdraw an extent of Acs:3-20 guntas in sy.no.397 and Ac:0-06 guntas in sy.no.306/A/3 and the requisitioning department has also accepted to withdraw the same and the same has been forwarded to the higher authorities for issuing of clarification.

The learned counsel for the petitioner admits the above fact that Acs:3-20 guntas in sy.no.397 is also included for withdrawal of the land acquisition proceedings. The only submission made by the learned counsel is that they have taken advance possession wayback in 1991. In those circumstances, the respondent-authorities are directed to immediately redeliver the possession to the petitioner after conducting survey. The above exercise shall be done within four weeks from the date of receipt of a copy of the order.

With the above direction, the writ petition is disposed of at the admission

stage. No costs.

JULY 08th, 2005. ----------

I S L. ELIPE DHARMA RAO, J.

To

1 The District Collector, Warangal District, Warangal.
2 The Revenue Divisional Officer (LAO), Mulug, Warangal District.
3 The General Manager, Singareni Collieries Company Limited,

Godavarikhani Ramagundam, Karimnagar District.

4 One CC to Govt.Pleader for Revenue, High Court Buildings,

High Court of AP Hyderabad (OUT).

5 Two CD Copies.

6 One CC to Mr.J.Venkateswara Reddy, Counsel for the Petitioner.